



Office of Command Counsel Newsletter

February 1999, Volume 99-1

AMC Legal Community & the "Intranet Age": JAGCNet and AMC Counsel Join Forces

MG Walt Huffman, The Judge Advocate General of the Army, has extended an invitation to the AMC legal community to register and join with the Army legal community in using the Army Judge Advocate General's information repository, JAGCNet. The JAGCNet website contains the latest TJAGSA desk books or course material, as well as other valuable information from OTJAG, USARCS, AMC, and others.

Additionally, if you want to discuss hot legal issues with other AMC legal counsel, you will now be able to do so at our discussion site on the JAGCNet AMC Forum, which, as we go to press is in the development stage.

The Office of Command Counsel received two excellent briefings from JAGCNet Administrator **LTC Joe Lee**. Thereafter, **Ed Korte** asked the Office of Command Counsel Automation Team to de-

velop a Plan of Action. The AMCCC A-Team is chaired by **Steve Klatsky**, assisted by our WebMaster **Josh Kranzberg**, **Mike Wentink**, **Holly Saunders** and **Fran Gudely**.

At the 11 January Chief Counsel VTC, **Ed Korte** announced the decision to participate in the JAGCNet, and to develop an AMC Forum.

On 13 January **COL Demmon Canner** sent an E-Mail message to all AMC Legal Offices describing how to register for the JAGCNet.

That message also explained that **Ed Korte** wanted the A-Team to "construct" the AMC Forum by identifying initial discussion categories and determining what minimal operating procedures should guide operation of the Forum.

More information will be sent shortly via E-Mail to each legal office detailing the process that will lead to all having access to the AMC Forum. ©

CLE 1999: Program Planning Underway

The AMC Continuing Legal Education Program for 1999 will be held 24-28 May at the Grosvenor Hotel, Lake Buena Vista, Florida. **Steve Klatsky** is chair of the planning committee. Your ideas are welcome. Contact Steve at DSN 767-2304, sklatsky@hqamc.army.mil

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Principles of Conflict Resolution

1. Think Before Reacting

In order to resolve conflict successfully it is important to think before we react—consider the options, weigh the possibilities.

2. Listen Actively

Listening is the most important part of communication. Active listening means not only listening to what another person is saying with words, but also to what is said by intonation and body language.

3. Attack the Problem

When emotions are high it is much easier to begin attacking the person on the other side than it is to solve the problem. The only way conflicts get resolved is when we attack the problem and not each other.

4. Accept Responsibility

Every conflict has many sides and there is enough responsibility for everyone. Attempting to place blame only creates resentment and anger that heightens any existing conflict.

5. Look for Interests

Positions are usually easy to understand because we are taught to verbalize what we want. However, if we are going to resolve conflict successfully we must uncover why we want something and what is really important about the issue in conflict.

6. Focus on the Future

In order to understand the conflict, it is important to understand the dynamics of the relationship including the history of the relationship. However, in order to resolve the conflict we must focus on the future. What do we want to do differently tomorrow?

7. Options for Mutual Gain

Look for ways to assure that we are all better off tomorrow than we are today. Our gain at the expense of someone else only prolongs conflict and prevents resolution.

This is an excerpt from a NAVY ADR Office paper. The complete paper and list of principles is provided (Encl 1).
©

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Check out the Newsletter on the Web at http://www.amc.army.mil/amc/command_counsel/

Letters to the Editor are accepted. Length must be no longer than 250 words. All submissions may be edited for clarity.

Acquisition Law Focus

AMC Lead Partnering Champion Workshop: Reviewing Where We Are & Deciding What's Next... But First: Thanks!

Many thanks to the AMC Partnering Team for planning and executing the Lead Partnering Champion Workshop, held on 14-15 January.

This edition of the Newsletter will highlight several aspects of the Workshop.

The AMC Partnering Team under the leadership of **Ed Korte** is Chaired by **Mark Sagan**, CECOM. Members are **Steve Klatsky**, HQ AMC, **Dave DeFrieze**, IOC and **Ken Bousquet**, TACOM.

The Workshop relied on the open and frank communication and dialogue among the MSC Lead Partnering Champions and the AMC Partnering Team.

The LPC Workshop Agenda is enclosed (Encl 2).

Each of the MSC Lead Partnering Champions came well-prepared to actively par-

ticipate and contribute to a review of the AMC Partnering Program experience since AMC organized a Lead Partnering Champion network.

Attendees representing their commands at the Lead Partnering Champion Workshop were:

Pat Ruppe, CECOM

Lorraine Maynard,
TACOM-Warren

Jerry Williams,
TACOM-ARDEC

Kris Mendoza,
TACOM-ACALA

Marshall Collins, IOC

Fred Carr, AMCOM

Shirley Harvey, ARL

Helen Morrison, SBCOM

Richard Mobley,
SSC-Natick, and

Harlan Gottlieb,
STRICOM,

A special thanks to **Holly Saunders** for excellent administrative support. ©

List of Enclosures

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10. Jan 99 ELD Bulletin
11. Tax Advisory--state of legal residence
12. Gifts & More Gifts

AMC Lead Partnering Champion Workshop Recap

At the Lead Partnering Champion Workshop the following issues dominated the spirited dialogue.

Program Review

A review of the AMC Partnering Program since our March 1998 AMC Partnering Champion Workshop. Specifically, we held 18 Partnering Workshops, using the AMC Model, in conjunction with Roadshow VII, distributed over 15,000 AMC Partnering Guides throughout the command, to the contractor community and to other DA and DOD organizations, and trained "thousands" of AMC personnel in Partnering.

Partnering Profile

A discussion of the "profile" of the inventory of some 70 AMC Partnering arrangements.

1. Partnering is being used in production (28), R&D (21), services (17) and construction (6) contracting.

2. Facilitators were used in 45 contracts. A common conclusion is that the use of

a facilitator accelerates the benefits of Partnering.

3. Seven different contract types are represented in our Partnering Inventory: FFP (41), Cost Type (24), CPFF (10), CPAF (9), CPIF (5), T&M (8), and FPI (2).

Successes

A discussion of the Partnering successes that were reported. Among the regular and recurring comments are the following:

1. Enhanced communication that is open and frank.

2. Early identification and timely resolution of disputes.

3. Increased understanding of goals and expectations.

4. On time or accelerated performance.

5. Within budget/savings.

6. Increased cooperation and individual empowerment.

Impediments

A discussion of impediments to expanded use of Partnering. For each we identified a course of action and solution to overcome the impediment.

1. Need for follow-up to initial Partnering Workshop.

2. Holding the initial Partnering Workshop immediately after contract award.

3. Greater understanding by government/industry as to what Partnering is.

4. Sustaining Partnering when key personnel change during contract performance.

Partnering Guide Review

The AMC Partnering Guide was reviewed and substantive recommendations for change were adopted. We hope to publish the second edition around 1 June 1999.

LPC Mission Statement

The Development of an AMC LPC Mission Statement

Self-Assessment

Development of an MSC Partnering Self-Assessment, which will assist the MSC Commanders, their LPC and staff to determine the state of Partnering in their commands. ©

Acquisition Law Focus

AMC Lead Partnering Champion Mission Statement

AMC Lead Partnering Champions are:

Committed to advocating, educating and implementing the AMC Partnering Program.

Representatives of MSC Commanders and their contract customers in the application of Partnering.

Sponsors of Partnering as an acquisition reform initiative.

Assessors of the effectiveness of AMC Partnering programs.

Coordinators of AMC Partnering Workshops using the AMC Partnering Model.

Leaders of the AMC MSC Partnering Champion Network.

Whether An Item is A Commercial Item--Looking Beyond What A Contractor Says

Former AMCOM Counsel **Bruce Crowe** provides an excellent paper on this issue of determining whether an item is deemed to be commercial (Encl 3).

Contractors are seeking to have noncompetitive items which are normally thought of as military equipment classified as commercial items based on minimal sales to nongovernmental customers for specialized applications, on direct sales to foreign governments, or on merely offering an item for sale to the general public with little, if any, real expectation that the item will be bought by any nongovernmental customer. Their actions shouldn't be surprising, given the stakes involved.

If the item is classified as a "commercial item" the contractor reaps several benefits. Among other things, the contractor is not required to submit cost or pricing data (FAR 15.403-1(b)(3)); the Government's rights to in-process inspection are lim-

ited (FAR 12.208); the Government's rights to obtain technical data which might support future competition are limited (FAR 12.211); and Cost Accounting Standards do not apply (FAR 12.214).

There are a number of GAO cases that have considered whether a particular product qualifies as a "commercial item," but they offer little insight into the exact meaning of terms in the definition. What is most notable about the cases is their statement of the settled standard of review: "Determining whether a product or service is a commercial item is largely within the discretion of the contracting agency, and such a determination will not be disturbed by our Office unless it is shown to be unreasonable."

Any decision on whether something is a commercial item will likely turn on the precise meaning assigned to such key terms as "of a type," "customarily," and "nongovernmental purposes." ^c

Acquisition Law Focus

Settlement Agreements-- Lessons Learned From the Court of Federal Claims

Vera Meza, Team Leader of the Protest Litigation Group, DSN 767-8177, recently chaired a VTC focused on settlements arising in the Protest arena but applicable regardless of legal discipline practiced.

The paper addresses issues such as: Are there limits? How do we craft them for whatever problem is being

solved to keep us out of hot water? Or, better yet, to be able to withstand hot water? When does corrective action go sour? (Encl 4).

The paper includes several court and administrative decisions under each issue, as well as a footnote to a case important for the issue of breaching a settlement agreement. ©

Sagan on Overarching Partnering Agreements

Check the January-February 1999 issue of Army RD&A magazine for an interesting article by CECOM Deputy Chief Counsel **Mark Sagan** entitled "Overarching Partnering Agreements--A Winning Business Strategy." The article defines OPAs and addresses the important components of this type of Partnering arrangement.

Ten Significant Issues for 1999

At the December 1998 Government Contract Law Symposium, held at TJAG School, GWU Law School Associate Professor of Government Contracts Law, **Steven L. Schooner**, gave an interesting lecture on his views of significant issues. Under each issue, he provides a complete bibliography and website for the practitioner (Encl 5).

10. Electronic Commerce (ES) Moves Into the Mainstream

9. Living in the World of

COTS (Commercial Off the Shelf)

8. Continued, Dramatic Reduction in Litigation (Is It Hibernation?)

7. Implementation of, and Litigation Stemming From, The FAR 15 Re-Write

6. Implementation of New Small Business (And Other Social) Programs

5. The Reality of Limits Upon Competition (Multiple Award Task Order and Delivery Contracts)

4. Evolution of Performance Based Contracting

(Specifically Performance Based Service Contracting [PBSC])

3. Maximizing the Use, and Minimizing the Abuse, of the Government Charge Card; Or Harnessing (Or Wasting) the Power of the Next Generation of Smart Card Technology

2. Change Management Following An Era of Rapid Acquisition Reinvention

1. The Balkanization of Federal Procurement (Or What Ever Happened To A Uniform Procurement System?) ©

Protest Lessons Learned: IDIQ Contracting

US Patents and International Cooperative Projects

TACOM IP Counsel **David Kuhn**, DSN 786-5681, has provided a detailed paper outlining the issues related to the authority of the President to enter cooperative project agreements with NATO or members of NATO, pursuant to 22 USC Section 2767 (Encl 6).

Matters addressed include the question of whether patent infringement by a contractor working for a foreign Government falls within the scope of 28 USC §1498.

Infringement?

This issue can be broken down into three elements:

- Is there “manufacture or use” within the meaning of the statute?
- Is the manufacture or use “by or for” the United States?
- Has the US granted authorization and consent to such manufacture or use?

The paper discusses in detail each of these three elements.

In a given cooperative program one or more non-US participants may not, as a matter of their law, policy or discretion, want to authorize or consent the use of their patents.

As a result, the US may desire to reciprocate by withholding authorization and consent to utilize United States patents. Too, the participants may decide that a given patent, whether it is from the US or from another participant country, represents an unwarranted technical risk. That is, the participants may decide that the patent requires an avenue of research or development whose chance of success does not justify the time and money needed to pursue that avenue.

Finally, since participants generally share costs of claims in international cooperative agreements, the participants may agree to forego usage of a given patent due to anticipated costs of successful claims. ©

Howard Bookman, CECOM Counsel, DSN 992-3227, provides a protest lessons learned paper regarding the indefinite delivery, indefinite quantity (IDIQ) area (Encl 7).

It focuses attention on the need to retain pre-proposal information in IDIQ circumstances, where delivery or task orders often follow years later. Preservation of pre-award documents and occurrences can be crucial, since any future delivery or task order can be protested as “not within the general scope” of the underlying contract.

A pre-solicitation or pre-proposal conference should be conducted and could be very useful in defending a subsequent protest. The conference briefings and questions and answers should be given wide dissemination and preserved.

Likewise, an executive summary in the RFP is recommended. In addition the Statement of Work should also contain a general scope paragraph describing the general purpose and goals of the contract. ©

AMC A-76 Workshop: Scope, Coverage and Contributions by AMC Counsel

The AMC Legal Community participated in a far reaching program: the AMC A-76 Workshop, held at the Molly Pitcher Inn, Red Bank, New Jersey 15-17 December 1998. The issues of privatization, outsourcing and contracting-out require AMC counsel to actively participate in the identification of legal issues and managerial actions to solve problems.

CECOM Chief Counsel **Kathi Szymanski** volunteered to host the Workshop. Bill Medsger, Chief, Business Operations Law Division, DSN 767-2556, administered the program, which was held in an informal atmosphere to maximize the opportunity for attendees to share experiences and to ask questions.

The voluminous Deskbook will be a resource material for the practitioner. We are currently uploading the Deskbook to the Web so

that all AMC legal personnel can have access to the wealth of materials contained in the binder.

Agenda Highlights

The agenda was highlighted by an extensive look at the Office of Management and Budget (OMB) Circular A-76. In this section, the history and background was explored, the roles of the OMB and Office of Federal Procurement Policy (OFPP) were highlighted, and we were introduced to the concepts of privatization and Employee Stock Ownership Plan (ESOP).

Dissecting the A-76 Process

The A-76 process was dissected and discussed at length. This included an examination of the plan of action, establishing milestones, cost analysis, procurement planning and le-

gal and regulatory framework. Separate sessions were devoted to Performance Work Statements, legal issues, information available to counsel, quality assurance plans, management plans, independent reviews and analysis, protests and appeals, all critical aspect of the process.

AMC Counsel

Several AMC attorneys made major contributions by substantive presentations. **Diane Travers**, HQ AMC, DSN 767-7571, spoke on Agency Procedures & Statutory Requirements and **Cassandra Johnson**, HQ AMC, DSN 767-8050, Civilian Personnel Aspects of A-76. A Lessons Learned Panel consisting of **Peter Tuttle**, Natick, **Beth Biez**., AMCOM and **David Scott**, TECOM, described experiences of those who already are involved in AMC A-76 efforts. ©

Employment Law Focus

Workplace Disputes ADR: DOJ IAWP Strategic Plan Outlined

Three Track Approach to Deal With Large Showing of Interest

The Section held their first meeting on October 28, 1998 to explore ways to meet their 1999 goal. Over 150 individuals from 49 different agencies met in small, facilitated groups to identify what their needs and expectations were for 1999 and how those needs might be met. All of the ideas and suggestions were tabulated and then divided and organized into a 1999 Strategic Plan that sets forth the vision for this Section.

Given the large size of the group and the diversity in current use of ADR in workplace disputes for each agency, the needs of the group were divided into three tracks.

Three Tracks

Track 1 is for those agencies that are not currently using ADR and thus want to learn the basics about setting up an ADR workplace disputes program. The goal of

this track is to provide all the necessary information during the year to ensure those who attend the programs will learn how to create a successful ADR workplace disputes program.

Track 2 is for those agencies that currently have an ADR workplace disputes program. This track's goal is provide information to agencies to help them improve, market, implement and evaluate their current ADR workplace disputes program.

Track 3 is for those agencies whose interests lie in sharing their resources or exploring complex policy questions including impediments to a successful ADR program, incentives, rewards and resource issues. This track will provide agencies with an opportunity to explore a variety of policy issues and options to improve or change policies or systems that may currently restrain a successful ADR program. ©

Mediation & Formal Discussion = ULP

In **Luke AFB and AFGE Local 1547**, 54 FLRA No.75, Aug 13, 1998, the Federal Labor Relations Authority ruled that the agency committed an unfair labor practice by holding a formal discussion--a mediation, without giving the exclusive representative the opportunity to attend the meeting.

The meeting involved the bargaining unit employee, an investigator with the Office of Complaints Investigation (OCI), the agency EEO counselor and agency counsel. OCI was acting in the capacity of a mediator.

The ALJ and the Authority agreed that the mediation session was a formal discussion.

The Authority used several criteria to support this conclusion. One important factor was the active role of counsel. Although counsel did not speak directly to the employee, the attorney attempted to negotiate a settlement agreement with the employee through the EEO counselor. ©

Employment Law Focus

Misconduct, Lying and the Supreme Court: the Lachance Case

CECOM Counsel **Susan Harbort**, DSN 992-9803, provides an excellent paper outlining the important issue of the relationship between underlying acts of misconduct and lying about it when asked during an agency investigation (Encl 8).

Employees who have been charged with misconduct cannot lie to their supervisors when questioned about that misconduct, according to the United States Supreme Court. In Lachance v. Erickson, et. al., 118 S. Ct. 753 (1998), the Supreme Court addressed the issue of whether the Due Process Clause of the Fifth Amendment to the Constitution or the Civil Service Reform Act, 5 United States Code (1U.S.C.1) § 1101 et. seq., preclude a Federal agency from disciplining an employee for making false statements to the agency regarding employment-related misconduct. In holding that they do not, the Court reversed a line of cases, including **Walsh v. Veterans Affairs**, 62 M.S.P.R.

586 (1994), which, since 1994, had been controlling how agencies deal with employees who make false statements during investigations/inquiries into employee misconduct.

Since **Walsh** was decided in 1994 until it was overruled this year, an Agency could not discipline an employee charged with misconduct for making false statements with regard to that misconduct.

In **Lachance**, the Supreme Court addressed the rights of employees outlined in 5 U.S.C. § 7513(b), and found that the section contains no right to falsely deny charged misconduct. The Court then examined the Fifth Amendment of the Constitution, and found that an employee may remain silent in the face of an agency investigation, if answering the question could expose the employee to criminal prosecution. However, the employee does not have the right to make false statements during the investigatory process. ©

Primer on the ADA: Educating the Workforce

CECOM Counsel **Denise Marrama**, CECOM Counsel, DSN 992-9835, has written a paper entitled: "What Is the Americans with Disability Act and to Whom Does It Apply?" (Encl 9).

The paper was written to provide the Ft. Monmouth community with factual information and background on this well-known, misunderstood legislation.

One section addresses the definition of a disability and a Federal agency's responsibility to provide reasonable accommodation.

Under the ADA, a reasonable accommodation may include, but is not limited to: making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job restructuring, to include part-time or modified work schedules or reassignment to a vacant position; acquisition or modification of equipment or devices; training; and the provision of qualified readers or interpreters.

A great way to educate the workforce. ©

Environmental Law Focus

After You've Gone Away and "Left" It, What Do You Do?

Maybe getting out of Ft Dodge is not going to be so easy after all ! The Department of Defense and the U.S. Environmental Protection Agency continue to struggle with exactly what responsibilities DoD will have for ensuring the effectiveness of institutional and land use controls, on property transferred

outside of Federal ownership. the Environmental Law Team has copies of the latest "draft" guidance, and we are trying to keep abreast of the latest development. Stay tuned. For instance feed back on the current land transfers you are working contact either **Stan Citron**, DSN 767-8043, or **Bob Lingo**, DSH 767-8082. ©

Whose's Got the Bucks for Old Buildings?

A former military member of our Command Counsel Office, **MAJ David P. Harney** has written an excellent legal analysis of National Trust for Historic Preservation v. Blanck, 938 F.Supp. 908 (D.D.C. 1996), a case which discusses the Army obligations under the National Historic Preservation Act (NHPA) to fund maintenance and repair of historic properties in a time of declining Army budgets.

In that case the court found that an alleged Army course of deferred maintenance amounting to "demolition by neglect" was not an undertaking under the NHPA which required section 106 consultation. Army lawyers must review Cultural Resource Management Plans, required under AR 200-4, to assure that they do not otherwise contain binding commitments to spend specific amounts of funds for preservation or maintenance of historic properties. Copies of MAJ Harney's article may be obtaining by contacting **Bob Lingo**, DSN 767-8082. ©

Planning for the Chemical Accident

The 1990 Clean Air Act Amendments added section 112r to provide for the prevention and mitigation of accidental chemical releases. Processes at stationary sources that contain a threshold quantity of a regulated substance, as listed by EPA, are subject to the accidental release prevention program. This program, 40 CFR Part 68, requires sources with more than a threshold quantity of a regulated substance to develop and implement a risk man-

agement program that includes a five-year accident history, offsite consequences analyses, a prevention program, and an emergency response program. If subject to the rule, the risk management plan must be submitted by June 21, 1999. The final program rule was published by EPA in the January 6, 1999 Federal Register, 64 FR 963. Installation environmental counsel should discuss with their engineers whether their installation is subject to the rule. <http://www.nara.gov/fedreg> ©

Environmental Law Focus

Cutting the Total Cost of Army Weapon Systems

Maj Dave Harney, has provided an article: Program Managers & Their Environmental Responsibilities, which discusses the requirements for program managers under the National Environmental Policy Act (NEPA) and the Pollution Prevention Act of 1990 to consider environmental factors, and to integrate pollution prevention into their weapon systems. His article also considers Comptroller General protest decisions examining agencies use of life-cycle costs as an evaluation factor in the award of a contract. Copies may be obtained from **Bob Lingo**. ©

ELD Bulletin for Jan 99

The Jan 99 ELD Bulletin is provided for those who have not received an electronic version or who have a general interest in Environmental Law (Encl 10).

Two Tax Advisories for 1999

SUBJECT: W-2 questions (As a service to the Director of Military Pay) 1998 Federal tax and wage statements for DoD personnel:

SERVICE MEMBERS who have not received their 1998 Federal Tax and Wage Statements (Form W-2) by January 28, or those who think they need corrections to their W-2s, should contact their local finance offices. If the finance offices cannot help, contact:

ARMY

Active Duty 1-888-729-2769 (PAYARMY)

Reserve 1-888-729-2769 (PAYARMY)

CIVILIAN EMPLOYEES should contact their local Customer Service Representative.

MILITARY RETIREES who do not receive IRS Form 1099R (Distributions From Pensions, Annuities, Etc.) should call 1-800-321-1080.

ANNUITANTS who do not receive IRS Form 1099R (Distributions From Pensions, Annuities, Etc.), should request a form through the automated system at 1-800-435-3396.

Additional tax information for all DFAS customers is available on the agency's website under "What's new" at www.dfas.mil.

SUBJECT: DD 2058, State of Legal Residence Certificate and DD 2058-1, State Income Tax Exemption Test

PURPOSE: To discuss the requirement for soldiers to recertify their exemption from state income tax withholding.

FACTS:

a. Some local finance offices announced that soldiers would be required to recertify their exemption form state income tax withholding before 15 February 1999. Failure to do so would cause the

soldier's withholding status to be reported as single with zero exemptions. This would cause finance to withhold the maximum amount required under state law from a soldier's military pay.
b. This information is incorrect. The paper discusses the requirements for certification (Encl 11).

Thanks to **Alex Bailey**, HQ AMC, DSN 767-8004

Annual AMC Ethics Report

The annual AMC Ethics Report is being compiled by HQ AMC Ethics Team Leader Mike Wentink, DSN 767-8003. Thanks to all AMC Ethics Counsel for their cooperation in providing the necessary material.

As always, the scope of the AMC Ethics challenge is apparent from an overview of some key data:

- O SF 278 Public Filers--104

- O Total 450 Confidential Filers--17,185

- O Total personnel attending Ethics training--17,000

- O Disciplinary actions taken for Ethics violations--84

- O Miuse of position, resources and information--54

- O Indebtedness--17

- O Conflicts of Interest--3

Gifts: Special Occasions and Those All-Important Exceptions

The *Standards of Ethical Conduct for Employees of the Executive Branch* has a "special, infrequent occasion" exception to the general rule that we should not give gifts to our official superiors. Reassignment or transfer outside of the superior-subordinate chain and retirement are two examples of "special, infrequent occasions" where employees may honor another's service to our organization and the Army with a gift appropriate to the occasion.

Also, this is one of the two situations when it is permissible to solicit other employees to contribute to a gift.

Restrictions

Among the most important restrictions are the following:

- O The maximum value of any gift(s) from a donating group generally may not exceed \$300. Gifts that are also given to the spouse are included in the \$300 maximum. In addition, plaques and similar items for presentation purposes only and with no intrinsic

value (e.g. no sterling silver or gem encrusted engraved plates) are not considered to be gifts, and are not included in the \$300 limit.

- O The maximum that may be solicited from other employees is \$10, although an employee may contribute more than \$10 on his or her own initiative.

- O Employee participation and the amount of the contribution must be voluntary.

- O We may not solicit from "outside sources." For example, we may not solicit contributions from support contractors or their employees, and we may not accept contributions from them for this gift.

- O If an employee contributes to the gift from two different donating groups (e.g., the CSM contributes to both the enlisted personnel gift and to the command group's gift to the departing commander), the total value of the two gifts may not exceed \$300.

Mike Wentink, DSN 767-8003, provides an Ethics Advisory on this important issue (Encl 12). ©

AMC Legal Office Profile

Industrial Operations Command, Rock Island, Illinois

From the Desk of Chief Counsel **Tony Sconyers**:

As many of the AMC family have experienced, we at the U.S. Army Industrial Operations Command face an uncertain future and yet we know this must not interfere with our work ethics or support to those who depend on our legal expertise.

We provide legal support as a team within the AMC family. We remain focused and dedicated to our mission.

Mission

The mission of the U.S. Army Industrial Operations Command is: "Provide the Military Forces Timely and Quality Ammunition, Depot Maintenance, Manufacturing, and Logistics Support". The Law Center is a major player in the overall IOC Mission.

The mission of the U.S. Army Industrial Operations Command Law Center is:

"To provide legal advice to the Commanding General and staff on all legal matters arising within the Industrial Operations Command. To provide a full range of legal services/advice to all IOC on general law issues including

such areas as: employment, labor, EEO, ethics, fraud, antitrust, bankruptcy, tax, and administrative/military installation law. To represent and defend the command in tort/noncontractual litigation. To provide legal services on a full range of environmental, safety, surety, and land use issues for all IOC".

We live our mission on a daily basis. We live our mission with no expectations in return; more than the words, but the experience of performing well and with pride and determination. Making a difference! We are players on the team.

31 People

My Law Center is made up of 31 people. Thirty-one dedicated people who I have counted on for support for the past 4 years. Each one of them has an important role in the IOC Law Center family.

I came to the IOC (then known as ARRCOM) in 1981. A young attorney in the acquisition law area. In 1994 I was named Chief Counsel. This is a position I hold with respect for the responsibility and respect for the people.

Front Office

My secretary is **Lisa Nelson**. She's been with the Law Center for almost 18 years. My administrative officer is **Mary Ernat**. In one of the command "shuffles" Mary joined our team. Mary has been with the Government for close to 17 years.

Acquisition Law Division

Mike Patramanis has been the Chief of Acquisition Law since 1980. Mike is approaching the 35-year mark with the Command.

JoAnne Lieving is a Legal Assistant in the Acquisition Law area, with 18 years of Government service. JoAnne provides support to the attorneys in the acquisition law area.

Sandra Biermann has been with the Government since 1996. She joined our office with a focus on acquisition law. Particularly with chemical demilitarization, and small and medium caliber ammunition.

AMC Legal Office Profile

Industrial Operations Command, Rock Island, Illinois

Brad Crosson has been with the Government approaching 13 years. He's in the acquisition law area. He is heavily involved in the HY-DRA 70 2.75" Rocket, 120mm Tank Training Ammunition, and XMAT. His specialties are best value source selection, contract formation and administration.

David DeFrieze has been in the IOC Law Center for 15 years. Dave provides support to the Army War Reserve Support Command. He is heavily involved with partnering, ARMS, chemical demilitarization, and whatever gets tossed his way.

Gail Fisher is a Paralegal Specialist, focusing mainly in the acquisition law area. Most recently she's dedicating much time to environmental law and general law matters. She's been an IOC Law Center team member since 1981.

Terese Harrison ("T") has been with our team in the acquisition law area since 1994. A former Captain in the U.S. Army, we rely heavily on T's expertise in the area of acquisition law. More specifically, direct sales related issues and CRADAs.

Marc Howze is our newest team member. A Captain in the U.S. Army, he joins the IOC Law Center specializing in acquisition law. He came to us last summer from Fort Lewis where he served as Chief, Legal Assistance Division.

Bernadine McGuire ("Bernie") has been with the IOC Law Center since 1984. The last 10 years she's concentrated in acquisition law and now provides legal advice to the Chemical Demilitarization Program.

John Seeck has been member of the IOC Law Center since 1974. He specializes in the Acquisition Law area. We rely on John's expertise with contract law and fiscal law issues.

Bridget Stengel has been with the office since 1985 and specializes in acquisition law. Bridget is getting involved in the general law area as well.

Sam Walker has 19 years with the Law Center. His concentrated areas of expertise are litigation and contract disputes. Sam is currently heavily involved with the A-76 studies.

Environmental/ Safety Law Division

Dennis Bates has been with the Government for 19+ years. He is the Chief of Environmental/Safety Law. His primary specialties are in installation legal issues on environmental, safety, and real estate matters.

Angela Davila has been with the Government for 15 years. She's been part of the law team since 1996 and is currently a Legal Assistant in the Environmental/Safety Law area.

Eugene Baime (Gene) has been at the IOC for a year. He's a Captain in the U.S. Army specializing in litigation and UCMJ. Captain Baime is currently involved in a project on environmental cost-recovery.

William Bradley has been with the IOC Law Center since 1987 and is specializing in the environmental law area. Bill, a retired combat arms Army officer, has extended experience in acquisition, adversary proceedings, labor law, administrative law, and criminal law as a former prosecutor.

AMC Legal Office Profile

Industrial Operations Command, Rock Island, Illinois

Environmental/ Safety Law Division (Continued)

Thomas Jackson has been with the IOC Law Center since 1989 specializing in environmental law. From 1979 - 1983 Tom was a U.S. Army Captain (Explosive Ordnance Disposal).

Janalee Keppy has been a Paralegal Specialist in the IOC Law Center since 1980. She is currently focusing on environmental law, but continues to support the general law area. She's been with the Government, in the legal office, for almost 31 years.

Geraldine Lowery has been with the Government since 1989. She joined the IOC Law Center in 1997 from the Corps of Engineers where her concentration was on real estate law matters. We continue to count on her expertise in that area, in addition to utilities issues.

Richard Murphy joined the IOC Law Center in 1996 as a military officer. Rick is specializing in environmental law, utilities privatization, and property disposal.

John Rock has been in the IOC Law Center since 1971. John's background specialties include labor and general law. John currently concentrates on environmental law and taxation issues.

General Law/ Installation Support Division

Sharon Lipes is the Chief, General Law/Installation Support. Sharon has been chief since 1995. Previously, she was assigned for 16 years as an Acquisition Law attorney. She currently provides her expertise in general law, congressional inquiries, and ethics.

Mary Lou Massa joined the IOC Law Center in 1996. Mary Lou is a Legal Assistant in the General Law/Installation Support area. Among the other countless support functions she provides, she handles congressional inquiries and visits received by the IOC and its installations.

Kathleen Allen is a Paralegal Specialist in the General Law/Installation Support area. Kathie has 19 years with the Law Center. She's our military income tax expert, handles congressional inquiries, real estate claims, and helps us all who have computer questions.

Amy Armstrong joined our legal team in 1996. Amy's concentrated area of expertise include administrative law/FOIA, employment/labor law, and legislative initiatives.

Steven Kellogg first joined our office as a Captain appointed as the military legal advisor. He's been with the Law Center since 1994 and now specializes in employment/labor law, law of military installations, and administrative law.

Thomas McGhee has been with the Law Center since 1979. He has extensive acquisition background, but currently focuses on congressional affairs, procurement fraud and installation issues. He is known as our "Web Master".

Marina Yokas-Reese has been with the Government since 1983, all in the IOCLaw Center. Marina's specialty areas include ethics, procurement fraud, A-76, and bankruptcy.

In sum...

I'm proud to be a part of the IOC Law Center Team and the AMC Legal Community. I couldn't have done it without my team. My thanks. I appreciate the dedication and support that you demonstrate through your daily mission. Our mission.

Anthony Sconyers

Faces In The Firm

Hello-Goodbye

CECOM

Ted Chupein joined the office as Chief of the Competition Management Division.

1LT Robert Paschall joined the SJA Division, and will practice environmental and ethics law.

AMCOM

Mike Lonsberry joined the Acquisition Law Division.

TACOM

Therese Novell joined the General Law Division from private practice.

Christine Kachan joined the Business Law Division.

Joseph Jecks also joined the Business Law Division.

Marriage

TACOM

Pat Jaques, ACALA legal office secretary, married ARDEC engineer Jerry Strahl on December 27.

TACOM

Dominic Ortisi retired in January after 34 years of government service. TACOM will now be without an "Ortisi" as Dominic follows his brother Frank into retirement.

AMCOM

Bruce Crowe resigned from government service to enter corporate legal practice in St. Louis.

Doris Lillard retired in January after almost 40 years of service--39 of those in the Redstone Law Library!

Nancy Forbes, Secretary to the Chief Counsel retired in December.

Aviation Applied Technology Directorate Ft. Eustis, Virginia

Larry Smail, Chief of the office retired in January with 36 years of service at Ft. Eustis.

HQ AMC

Larry Anderson has been named Deputy General Counsel for the Defense Security Cooperation Agency.

Births

TACOM

Joe Picchiotti, TACOM-ACALA counsel and his wife Laura became the proud parents of Daniel William and Michael Robert, born on November 23. The twins join their sister Katie.

AMCOM

CPT Martin White and his wife Tammy are the proud parents of Kathryn Ashley, who was born on January 21.

Awards and Honors

HQ AMC

Craig Hodge has been selected to be counsel to USA Security Assistance Command.

TACOM

Dominic Ortisi received the Meritorious Civilian Service Award.

SBCCOM

Peggy Giesecking received her LLM in Environmental Law from George Washington--graduating with honors.